

ARTICLE 1. BREAKING AND DIGGING IN STREETS, CURBS AND SIDEWALKS (10-26-92)

12-1. Permit Required.

No person shall, for any purpose whatsoever:

- (a) Make or cause to be made any street opening or any penetration, excavation or disturbance of the surface of any portion of any street or within the Town or unaccepted dedicated street; or
- (b) Construct, alter or remove any curb, sidewalk, retaining wall, driveway, or drainage facility in or under any street within the Town or unaccepted dedicated street unless he first obtains a permit from the Director of the Department of Public Works.

12-2. Application for Permit and Fee.

- (a) Application for permit shall be made in triplicate on the application form provided by the Town for that purpose, and shall be filed with the Director of the Department of Public Works.
- (b) Each copy of the application shall be signed by the Director of the Department of Public Works Supervisor or Engineer. One (1) copy shall be retained in his file, one (1) copy to the applicant, and the third copy to the Town Engineer.
- (c) Within five (5) working days after the receipt of the application, the Director of the Department of Public Works, Supervisor Street or Town Engineer or his designee shall inspect the premises, review the nature of the work to be done, and either approve or disapprove the application with reason. Work under the permit shall commence within seven (7) days of the issuance of the permit, except work under a permit issued to a public utility shall commence within sixty (60) days of the issuance of the permit. If work is not commenced within that time, the permit shall automatically terminate unless extended in writing by the Town Engineer. The applicant shall notify the Town at least forty-eight (48) hours prior to commencement.
- (d) Application for a permit shall be made to the Director of the Department of Public Works and shall contain the following information:
  - (1) The name, address and phone number of the applicant, contractor and owner.

(2) The name of the street where the opening is to be made and the street number, if any, of the abutting property.

(3) The Town of Hackettstown tax map block and lot number or street address of the property for the benefit of which the opening is to be made.

(4) The nature of the surface in which the opening is to be made.

(5) Character and purpose of the work proposed including the width of the opening.

(6) Time when the work is to be commenced and completed.

(7) Each application shall be accompanied by a set of plans or sketch in duplicate showing the exact location and dimensions of all openings.

(e) This article shall apply to all individuals, corporations, public utilities or other legal entities. It shall not apply to any municipal department. All sections of this Article except for section 12-3 shall apply to the Hackettstown Municipal Utilities Authority. The Hackettstown Municipal Utilities Authority shall not be required to pay the deposit, bond or fees set forth in Section 12-3.

(f) Where the excavation is to be made in a heavily traveled street or where for any other reason it is deemed necessary by the Town to station a police officer near the excavation to direct traffic. The applicant shall also be charged amounts sufficient to compensate the police officer at the excavation, including overtime cost, if any.

12-3. Deposit Required: Bond and Fees Required.

(a) The following minimum deposits will be required for work performed under this Chapter. Said deposits shall be held by the Town for the period of one (1) year, unless otherwise provided by this Chapter:

Type of Opening	Deposit or Bond Amount
Pavement	60.00/sq. yd.
Road Shoulder	20.00/sq. yd.
Lawn Areas	15.00/sq. yd.
Curbing	15.00/sq. yd.
Sidewalk	16.00/sq. yd.

(b) The applicant may, in lieu of a cash deposit, submit a surety bond, which, upon approval by the Town Attorney as to sufficiency and form, shall have the same force and effect as a cash bond. Said bond shall, by its terms, provide for payment of any damages by or from the acts of the applicant or its agents, servants or subcontractors and shall save the Town of Hackettstown harmless from any suits at law or otherwise which may result from damages sustained by any persons or property as a result directly or indirectly of the work performed under the permit.

(c) Deposits and bonds shall be held by the Town for a period of one (1) year with the exception of deposits by single-family homeowners. At the discretion of the Town Engineer, deposits may be returned to single family homeowners upon completion of the project. However, said homeowners shall continue to be responsible for any repair and maintenance to said project for a period of one (1) year.

(d) There shall be a non-refundable review and inspection fee of three (3) percent of the deposit or bond amount established under paragraph A above or \$50.00, whichever is greater. There shall be non-refundable review and inspection fee for projects limited to sidewalk and driveway apron replacement being performed at owner-occupied one or two family homes. An application is required and there shall be no exception from the fee if the project includes any street opening, pavement, road shoulder or curbing work.

(e) Public utility corporations of the State of New Jersey may file a corporate bond in the amount of ten thousand (\$10,000.00) dollars on a yearly basis in lieu of the cash deposit or surety bond. Inspection fees for utility companies shall be calculated on the basis of the full cash deposit required under Paragraph (a) above or the \$100.00 minimum established in paragraph (d) above, whichever is greater.

(f) The cost of all inspections made by the Director, Supervisor Streets, Town Engineer or his designated inspector shall be disbursed out of the deposit and the balance returned.

(g) In the event the permittee fails to complete the improvement and properly replace the broken curb, sidewalk or pavement within ten (10) days of written notice, weather permitting the Town shall complete the work and deduct the cost of the work from the deposit. If said deposit is insufficient to cover the cost thereof, the applicant shall be held liable therefor.

#### 12-4. Safety Requirements.

In the event the 3% inspection fee does not cover the cost of the Town's inspections, the permittee agrees to pay the additional costs of Inspections. No additional permits will be issued to the permittee until all outstanding inspection fees or costs under paragraph (d) are paid.

- (a) The permittee shall have the permit in possession at work site.
- (b) The applicant shall properly guard the excavation by the erection of suitable barricades and also by displaying warning lights at night. The applicant shall in all cases provide reasonable safeguards by day and night to protect the traveling public. The applicant shall at all times maintain proper and sufficient drainage to prevent the accumulation of water upon the road to ensure and adequate and safe passage for the traveling public and, in this respect shall carry out, at its own expense, any orders of the Director, Supervisor Streets, Town Engineer or Police.
- (c) The permittee shall be liable for any neglect to safeguard the traveling public.

#### 12-5. Manner of Operation.

- (a) If the excavation extends the full width of the roadway, at least one-half of it shall be properly backfilled or covered with one inch steel plates secured and pinned properly before the other one-half is excavated, so as not to interfere with traffic. Steel plates may not be used from November through April and may not be left in place for more than 24 hours.
- (b) The excavation and backfilling shall be made within the time specified in the permit or within any extension there given by the engineer.
- (c) All excavation work shall be coordinated to minimize the period of obstruction.
- (d) The maximum width and size of all shall be set forth in the sketch plans submitted with the application and approved by the Town.
- (e) Any tunneling under the paved portion of the roadway shall be reviewed and approved by the Town Engineer or Director of the Department of Public Works.
- (f) All patching must be in method approved by the Town.
- (g) The permittee shall, if possible, make the necessary excavation on either side of the pavement in order to make his connection rather than to excavate the pavement proper. To reach the

main on the opposite side, the permittee shall drive a pipe from one (1) excavation to the other so as not to disturb the pavement. All said work shall be done in the manner prescribed under the permit.

(h) (1) The permittee shall use as the material for backfill a Type I - Class B - Bank Run Gravel, or Type 5, compacted in lifts not exceeding one foot to within six (6") inches of the surface after compaction. Existing fill may be reused if it is determined by the Town Engineer to be acceptable. The base course shall then consist of four (4") inches of stabilized base, either lime fly ash or bituminous concrete, and a temporary surface course consisting of two (2") inches of FABC Mix #5.

(2) When authorized by the supervisor or engineer, the contractor shall remove the temporary surface course by a method approved by the municipal engineer and place a final surface consisting of two (2") inches of FABC Mix #5.

(i) All excavated material shall be removed from the roadway and carted away.

(j) In no event shall any street remain wholly or partially obstructed overnight without special permission from the engineer or superintendent. The Hackettstown Police Department shall be notified by the contractor.

(k) All work shall conform to the standard specifications as adopted by the Town, which include curbing, sidewalks, pavements and backfilling. Said specifications shall be a part of this ordinance.

(l) In the case of emergencies, a similar permit shall be taken out within two (2) working days after such emergency opening or excavation is made.

(1) Under no circumstances shall an existing curb or sidewalk be cut or broken, but must be removed at the nearest joint.

(m) To insure adequate protection for any possible damage which may be caused to property or injury to any person or persons, any permittee performing any work under the provisions of this ordinance shall be required to furnish proof to the Town that there is in effect covering said property, public liability insurance issued by an insurance company authorized to transact business in the State of New Jersey, in an amount of not less than one million (\$1,000,000.00) dollars, single limit of liability for incident involving the company or its work or in an amount acceptable to the Town Attorney. The permittee shall also provide bodily injury insurance and property damage insurance in the amounts

stated above covering the operation of all motor vehicles owned by the permittee or used by the permittee in the prosecution of the work under the permit. All insurance policies shall provide for the reinstatement of full coverage after the payment of any claim. Whenever, in the opinion of the Town Attorney a permittee is capable of acting as a self-insurer, then the Town Council may waive the provisions of insurance coverage as hereinabove set forth.

#### 12-6. Certain Acts Unlawful.

No person shall:

- (a) Cause damage to any street by locking the wheels of any vehicle, attaching a drag or other mechanism to any vehicle;
- (b) Use or operate any type of vehicle equipment utilizing any type of traction tread or wheel lugs likely to cause damage to the street;
- (c) Obstruct the drainage along any street with dirt, fill, earth, rock, leaves or any other material, equipment or article, or by installing a pipe of inadequate size under a walkway, driveway, or along the street;
- (d) Obstruct, interfere with, or divert the flow of water in or from any existing drainage facility carrying storm water or ground water under any street, or across private property;
- (e) Do or cause to be done any act including the construction of buildings, private roads, grading, landscaping, or otherwise, which causes or results in restricting or exceeding the capacity of any drainage facility, or in the accumulation of dirt, silt, earth, rock or other materials upon any street or drainage facility, irrespective of the manner or distance by which said water, dirt, silt, earth, rock or other material shall travel before reaching said street or drainage facility;
- (f) Place or store building material, supplies or equipment, construction shanties or tool sheds, earth, dirt, stones or any other materials or articles upon any street except while such street is under construction or repair and in connection therewith, and except in connections with work being done by any public utility company or corporation defined in R. S. 48:2-13.
- (g) Obstruction of private driveways except where permitted by the engineer or supervisor.

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12-7. Action by Town; Notice.

Immediately upon discovery or notification of any violation of the provisions of the preceding section, the Director, Supervisor Streets or Engineer shall issue a written order to the owner or tenant, requiring compliance therewith within ten (10) days. If such person refuses or neglects to comply with the order of the engineer within the stated time limit, the supervisor shall proceed to have the violation corrected by having the required work accomplished.

12-8. Certificate to Council; Costs as Lien.

If the work is done by the Street Supervisor, he shall certify the cost of the work to the Council.

The Council shall examine the certificate of cost and if it finds the certificate to be correct, shall cause the cost as shown thereon to be charges against the property benefited. The amount so charged shall forthwith become a lien upon such property and shall be added to and become and form part of the taxes next to be assessed and levied upon such property benefited, the same to bear interest at the same rate as other taxes, and shall be collected and enforced by the same officers and in the same manner as taxes.

12-9. Violator Liable for Expenses of Town.

Any person who violates any provision of this article with resultant damage to or obstruction of any street, private driveway, curb, sidewalk, gutter, storm drain or culvert, shall be liable for all expenses incurred by the town in repairing said damage or removing said obstructions in additions to the penalty prescribed below.

12-10. Penalty.

Any person who violates any provisions of this Article shall, upon conviction thereof, be punished by a fine not exceeding One Thousand Dollars (\$1,000.00), or by imprisonment for a term not exceeding ninety (90) days, or both. Each day that a violation exists, occurs or continues shall constitute a separate offense for the purpose of imposing the penalties referred to above.

12-11. Unaccepted Streets.

Any openings to streets under construction shall be in conformance with pursuant to an

approved subdivision or stipulation with all the requirements of this chapter, except the bonding requirements.

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#### 12-12. Excavations in Newly Paved Streets

(a) Notice of pending paving; time restriction on excavations. When the Town shall improve or pave any street, the Superintendent of the Department of Public Works shall first give notice by delivering it personally or by posting notice on the premises and by regular mail to all persons owning property abutting on the street about to be paved or improved and to all public utilities and authorities operating in the Town, and all such persons, utilities and authorities shall make all connections, as well as any repairs thereto which would necessitate excavation of the street, within forty-five (45) days from the giving of such notice. The time shall be extended if permission is requested in writing and approved by the Superintendent of Public Works.

(b) Opening newly paved street: restrictions.

No permit shall be issued by the Superintendent of the Department of Public Works to any person given notice under 12-12 a. hereof which would allow an excavation or opening in a paved or improved street surface less than five (5) years old unless the applicant can clearly demonstrate to the Mayor and Common Council that public health or safety requires that the proposed work be permitted or unless an emergency condition exists.

(c) Opening newly paved street: penalty charge.

If by special permission of the Mayor and Council a permit is issued to open any paved or improved street surface less than five (5) years old, a penalty charge shall be made for the opening, except that the penalty shall be waived in the event the work is of an emergency nature. The penalty charge shall be equal to two percent (2%) of the cost of restoring the opening for each unelapsed month or fraction thereof for the five-year restriction period.